

**SUBSIDIES ENFORCEMENT
ANNUAL REPORT TO THE CONGRESS**

Joint Report of the
Office of the United States Trade Representative
and the
U.S. Department of Commerce

FEBRUARY 1998

Executive Summary

As part of this Administration's commitment to the vigorous enforcement of our trade agreements and to ensuring our trading partners' adherence to the terms of those agreements, the Office of the U.S. Trade Representative ("USTR") and the Department of Commerce ("Commerce") have continued their close collaboration to monitor and strictly enforce the obligations of the Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement" or "Agreement"). The Subsidies Agreement, administered by the World Trade Organization ("WTO"), establishes multilateral disciplines on subsidies, including effective mechanisms for challenging government programs that are in violation of the Subsidies Agreement and remedies for subsidies affecting competition in foreign markets.

The roles of USTR and Commerce with respect to subsidy issues are both unique and complementary. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters, represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures, and leads the interagency team on matters of policy. The role of Commerce's Import Administration is to enforce the countervailing duty law and, in accordance with responsibilities assigned by the Congress in the Uruguay Round Agreements Act of 1994 ("URAA"), to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the WTO Subsidies Agreement.

In 1997, the Administration continued to devote considerable time and resources to ensuring that the implementation of the Subsidies Agreement proceeded in a manner which was consistent with the defense and advancement of U.S. interests. The United States played a leading role in the review of subsidy notifications, as well as in the development of guidelines and procedures which would facilitate the strengthening of disciplines against distortive subsidies and ensure that the use of provisions pertaining to non-actionable ("green light") subsidies would not be susceptible to abuse. As was reported last year, it continues to be the case that no WTO Member has notified any subsidies as being non-actionable under the provisions of the Subsidies Agreement. However, in two disputes under the Subsidies Agreement, including one brought by the United States, we have seen the first use of the so-called "dark amber" provisions which establish a rebuttable presumption of adverse trade effects when, *e.g.*, the subsidization of a product exceeds five percent of its value. Continued work on the implementation and evaluation of the effectiveness of these provisions will be increasingly necessary as we approach the 1999 review and decision concerning whether to retain or modify certain key provisions of the Subsidies Agreement. This review of the dark amber and green light subsidy provisions is required by the Agreement and must be approved by the Congress, pursuant to section 282(c) of the URAA.

Effective and vigorous enforcement of the Subsidies Agreement is a top priority for USTR and Commerce; therefore, during this past year, additional personnel and resources were assigned to Commerce's Subsidies Enforcement Office ("SEO") to expand its effectiveness.

The focus of the SEO has been to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. During this past year, SEO staff have handled numerous inquiries and met with representatives of U.S. industries concerned about the subsidization of foreign competitors. We are currently researching several potential cases under the Subsidies Agreement.

Further, the SEO is working to increase awareness of the resources available to the U.S. trading community in combating unfair competition in foreign markets due to subsidization. To provide this assistance in the most effective and efficient manner, attention is being given to developing information and analyzing subsidy concerns, integrating other government resources into this process, and making available through the Internet all publicly available subsidy information. An important aspect of increasing the effectiveness of the SEO has been to ensure that government personnel who have daily contact with the U.S. exporting community, both here in the United States and in our embassies overseas, are aware of the resources and services available regarding subsidy enforcement. During this past year, we have directed our efforts towards educating these personnel on the issue of subsidies, in general, and the benefits available to U.S. companies under the Subsidies Agreement.

In addition, the SEO has established an electronic database by drawing from the subsidy information which Commerce has developed through years of conducting countervailing duty investigations, and has made this available through the Internet. We also continue to increase the number of WTO subsidy notifications accessible via the Internet. By providing this information in a centralized location, the vast U.S. exporting community now has improved access to information about the remedies available to them under the Subsidies Agreement and the information necessary to develop a countervailing duty case or a WTO subsidies complaint.

In the coming year, the Administration will continue to provide strong, pro-active responses to subsidy barriers confronted by U.S. exporters in third country markets. To accomplish this, some of the areas to which we will be devoting attention are formalizing the interactions of the SEO with the Department of State and the U.S. and Foreign Commercial Service at Commerce to ensure a continual dialogue on subsidy enforcement issues, publicizing to the U.S. exporting community the wealth of subsidy information that is available through the Internet and the Commerce Subsidies Library, and committing substantial resources to working actively with U.S. interests in response to their concerns regarding subsidy issues.

INTRODUCTION

Section 281 of the URAA sets out the responsibilities of USTR and Commerce in enforcing the United States' rights in the WTO under the Subsidies Agreement. As part of these enforcement efforts, section 281(f)(4) directs USTR and Commerce to issue annually a joint report to the Congress detailing the subsidies practices of major trading partners of the United States and the monitoring and enforcement activities of USTR and Commerce throughout the previous year. This is the third annual report issued under this provision.

MONITORING AND ENFORCEMENT ACTIVITIES

The Subsidies Agreement establishes multilateral disciplines on subsidies and provides mechanisms for challenging government programs that violate these disciplines. WTO disciplines are enforceable through binding dispute settlement, with strict timelines that ensure a speedy result. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

Among its various disciplines, the Subsidies Agreement provides remedies for subsidies affecting competition not only domestically, but also in the subsidizing government's market and in third country markets. Previously, the countervailing duty law was the only practical mechanism for U.S. companies to address subsidized foreign competition. Under the countervailing duty law, Commerce can instruct Customs to impose a duty on imports if Commerce determines the imports are subsidized and the U.S. International Trade Commission ("ITC") finds that those imports are causing injury to the U.S. industry. By its nature, the countervailing duty law focuses only on the effects of foreign subsidized competition in the United States. Under the Subsidies Agreement, U.S. industries have a remedy through the WTO against foreign subsidies that affect their business in markets other than the United States.

The monitoring and enforcement activities of USTR and Commerce during the preceding year fall into the following categories: (A) reviewing the WTO subsidy notifications of our trading partners, as well as participating in other Subsidies Committee activities; (B) monitoring subsidy activity and counseling U.S. private sector and relevant government agencies about WTO subsidy disciplines; and (C) taking action, where appropriate, to enforce U.S. rights and to address real and potential harm to U.S. interests.

A. The WTO Subsidies Committee

The Subsidies Agreement disciplines subsidy practices through a method of categorization. Export subsidies and import substitution subsidies are prohibited ("red light") practices. Subsidies provided for certain industrial research and development, regional development and environmental compliance purposes are both permitted and non-actionable

(“green light”) practices, so long as such assistance is provided according to the strict conditions and criteria stipulated in the Agreement. Finally, all other (“yellow light”) subsidies are permitted, but may be challenged through WTO dispute settlement or countervailing duty proceedings. These subsidies become “actionable” when: (i) they are limited to a firm, industry or group thereof within the territory of a WTO Member (so-called “specific” subsidies); and (ii) they cause adverse trade effects. Certain subsidies, moreover, are presumed to cause such effects -- *i.e.*, subsidies granted in certain circumstances to cover operating losses, subsidies for the direct forgiveness of debt, or the subsidization of a product in excess of five percent of the product’s value. Taking the traffic light analogy one step further, these presumptively harmful subsidies are categorized as “dark amber.”

One way in which the Subsidies Agreement facilitates compliance with these disciplines, and the monitoring of such compliance, is through subsidy notification. In some instances, notification is mandatory, while in others it is an optional feature that can be used to secure a benefit provided by the Agreement -- such as to make use of transition periods in which to come into conformity with Agreement norms or in order to obtain prior recognition that a subsidy is deserving of green light treatment. In keeping with the objectives and directives expressed in the URAA, WTO subsidy notifications also play an important role in the United States’ monitoring and enforcement activities to protect U.S. rights and benefits under the Subsidies Agreement.

1. Review of Notified Subsidies

Under Article 25.2 of the Agreement, Members are required to report certain information on all measures, practices and activities that meet the definition of a subsidy, as set forth in the Agreement, and that are specific within the territory of each Member. In a decision taken by the WTO Subsidies Committee (“Subsidies Committee” or “Committee”), for both convenience and clarity of reporting, this notification requirement was consolidated with the separate obligation of Article XVI:1 of the General Agreement on Tariffs and Trade 1994 (“GATT 1994”) to notify any subsidy which operates directly or indirectly to increase exports or reduce imports. While the combined notification obligation is mandatory, so-called “new and full” notifications are submitted only every third year, beginning in 1995, whereas updating notifications (usually containing information solely on changes to previously notified subsidies) are made in the intervening years. Article 26 of the Agreement charges the Committee with reviewing the full notifications at special sessions held every third year, whereas updates are reviewed at regular, semi-annual Committee meetings.

In 1997, the Committee reviewed a number of 1995 notifications and devoted considerable time to the review of updating notifications submitted for the 1996 reporting period. The following table shows the 41 WTO Members (counting the European Union (EU) as one) whose notifications were reviewed by the Subsidies Committee in 1997, indicating the annual reporting period to which the reviewed notifications relate (and including, where noted, instances in which only a supplemental notification was reviewed.)

WTO SUBSIDY NOTIFICATIONS REVIEWED IN 1997

WTO MEMBER	1995 Full Notification	1996 Update Notification
Antigua and Barbuda	X	X
Argentina	(supplement only)	
Bahrain	X	X
Brazil		(supplement only)
Brunei Darussalam	X	X
Bulgaria	X	
Burkina Faso		X
Cameroon	X	X
Canada		X
Chile	X	X
Colombia		X
Cote d'Ivoire	X	X
Cuba	X	
Cyprus	X	X
Czech Republic		X
European Union		X
Fiji	X	X
Ghana	X	
Iceland	X	X
India	(supplement only)	
Indonesia		X
Israel	X	X
Japan		(supplement only)
Korea		X
Liechtenstein		X
Mexico	X	
Norway		X
Pakistan	X	
Philippines		X
Poland	X	X
Romania	X	X
Senegal	X	X
Singapore		X
Slovenia	X	X
South Africa	X	X
Sri Lanka	X	
Uganda	X	
United Arab Emirates	X	X
Uruguay	X	X
Zambia		X

While the United States' 1996 updating notification was submitted last year, it will not be reviewed by the Committee until the next regular meeting in April of this year. Our updating notification reflects ongoing U.S. efforts to expand the scope of the notification and encourage other Members to do the same. For example, our 1996 update included for the first time a series of federal tax provisions, as well as an additional program administered by the Department of Commerce which benefits watch producers primarily in the U.S. Virgin Islands.¹

The completeness and timeliness of subsidy notifications remained a source of concern for the Committee and for the United States. WTO Members continue to struggle with the competing demands of submitting timely and comprehensive notifications, especially given the considerable time and resources needed to collect and analyze information and to reach a consensus with subsidy program administrators concerning the correct scope of the notification. By the time that the Subsidies Committee had finalized its 1997 annual report to the WTO Council for Trade in Goods, in late October 1997, 52 out of 132 Members of the WTO still had not submitted their notifications for the 1995 reporting period. However, virtually all of our major trading partners have submitted at least their initial notifications, and many of them have also submitted supplemental notifications.

The notification and review process has been improving our knowledge and understanding of WTO Members' subsidy regimes. This improved transparency has been helped by the Committee's practice of exchanging oral and written questions and answers on the notifications under review. Here, the United States continued to play a leading role, being among the most active in questioning others and in identifying potentially notifiable measures which Members had failed to include in their notifications. Drawing especially on the expertise of the Departments of Commerce and Agriculture, USTR continued its coordination of an interagency review process which identified both unreported programs and potential problems in either the accuracy of reporting or in the compatibility of certain notified measures with the provisions of the Subsidies Agreement. As an example of our efforts this year, the United States has sought an explanation from the EU of why it has not notified the exchange rate guarantee activities of Belgian authorities with respect to sales of aircraft components to Airbus Industrie made by certain Belgian contractors. The United States was unsuccessful in its attempts to obtain information about these activities on several occasions through the information-sharing mechanisms available under the U.S.-EC Arrangement on Trade in Large Civil Aircraft. Several years ago, a similar exchange rate guarantee scheme operated by German authorities for sales by Deutsche Airbus to the Airbus consortium was found to be a prohibited export subsidy by a panel

¹ The notification of a measure does not prejudice the issue of whether that measure is a subsidy, whether it is actionable under the Subsidies Agreement or whether it violates provisions of the WTO agreements.

constituted under the 1979 Subsidies Agreement of the GATT 1947.² In October 1997, the EU provided a vague, incomplete and generally unsatisfactory reply to our request. The Administration is currently evaluating whether to continue to seek information via the transparency provisions of the Subsidies Agreement or to turn to other provisions and means by which to clarify and resolve the matter.

Improvement in the notification of sub-central measures, *e.g.*, programs funded or administered by provincial or state governments, also continued to be a topic of discussion in the Committee in 1997. Despite certain Members having answered selective questions about specific sub-central programs, notifications continued to lack any systematic reporting of sub-central subsidies. Last year, under a separate provision of Article 25, the EU raised questions concerning 10 different measures maintained by various U.S. state governments, ranging from enterprise zones to loan and tax provisions to export promotion assistance.³ While USTR and Commerce have gathered information about certain sub-central measures in the United States, the United States has continued to signal to other WTO Members that the issue is not unique either to the United States or to those Members having federal systems of government. In consultation with the statutorily mandated intergovernmental advisory committee, we intend to submit a notification of certain state-level subsidies to the Committee this year and will address the EU's questions at the time that we submit our notification. However, we also are developing information on other countries' sub-central subsidies that we have identified in the course of our monitoring activities, and we plan to make that information available to the Committee as well.

2. Other Activities of the Committee

Beyond the specific developments described above, the Subsidies Committee's work in 1997 continued to involve other transparency-related activities, such as the review of Members' countervailing duty laws and actions, as well as consideration of guidelines and procedures that would facilitate implementation of various Agreement provisions. In this regard, among the most noteworthy achievements were (i) the issuance of recommendations for calculating subsidies on the basis of the cost to the subsidizing government by the Committee's Informal Group of Experts; and (ii) the Committee's adoption of procedures by which Members would update any notifications of green light subsidies. In both instances, U.S. participation was instrumental in ensuring that the outcome was one which substantially advanced U.S. interests and policies.

² The EU ultimately blocked adoption of this panel report under pre-Uruguay Round dispute settlement rules.

³ While the notifications of the EU do contain information about sub-central (*i.e.*, sub-national) measures in Austria, Belgium, Germany and Spain, the EU's notifications are far from exhaustive in terms of sub-central reporting.

Informal Group of Experts

Article 6.1(a) of the Agreement establishes a rebuttable presumption of “serious prejudice” (one of three main kinds of adverse trade effects described in the Agreement) whenever the subsidization of a product exceeds five percent, *ad valorem*. Annex IV to the Agreement indicates that this five percent threshold is to be calculated on the basis of the cost to the government of providing the subsidy⁴, and sets forth certain guidelines for performing such calculations. It then indicates that “[a]n understanding among Members should be developed, as necessary, on matters which are not specified in this Annex or which need further clarification.”

Late in 1995, in keeping with this mandate, the Committee established an Informal Group of Experts (including one American expert from the Department of Commerce) to examine, develop and recommend to the Committee additional rules for calculating the value of subsidies on the basis of the cost to the subsidizing government. This group met periodically throughout 1996 and 1997, and issued a report to the Committee on July 25, 1997, detailing its views and providing 21 separate recommendations on cost-to-government valuation and allocation issues. The report of the Informal Group was first taken up by the Committee at its October 1997 meeting. Members are now studying its contents. USTR and Commerce are currently considering the report in all its detail and, over the next couple of months, we will be consulting with other agencies, the Congress, appropriate advisory committees and other interested parties in the private sector.

The Informal Group’s report offers recommendations on several cross-cutting calculation issues -- such as when to allocate a subsidy’s value over a period of years rather than solely to the year of receipt -- while the remainder of its recommendations relate to the valuation of various types of particular subsidy instruments, *e.g.*, loans, grants and tax concessions. Our initial review of the report indicates that the recommendations appear to be consistent with U.S. countervailing duty methodologies adapted to a cost-to-government standard. In addition, the recommendations appear to offer a relatively comprehensive, predictable and straightforward package of measurement rules for implementing the five percent serious prejudice standard. We are reserving our final judgment on the package of recommendations until we have completed the consultation process described above.

⁴ This is in contrast to the “benefit-to-recipient” calculation methodology Commerce uses in countervailing duty proceedings. The “cost-to-government” approach calculates the value of a subsidy based on what it has cost the government to provide it, versus a subsidy amount calculated based on what the actual commercial benefit to the recipient of the subsidy might be.

Non-Actionable Subsidy Provisions

Rules governing non-actionable, or green light, subsidies are for the most part found in Article 8 of the Agreement. Article 8.2 spells out the conditions and criteria which must be met to satisfy green light status for industrial research and development subsidies (in sub-paragraph (a)), regional development subsidies (in sub-paragraph (b)) and environmental compliance subsidies (in sub-paragraph (c)). Article 8.3 indicates that subsidy programs for which non-actionable status is desired are to be notified in advance of their implementation, accompanied by information sufficient to show how the relevant conditions and criteria are met, and these notifications are to be followed up with annual updates. Other provisions of Article 8 provide additional details concerning this notification and Committee review process, ending with Article 8.5, which provides for binding arbitration in disputes over the consistency of a notified program with green light criteria or in individual cases where it is believed that the terms of a notified program have been violated. As was reported last year, to date, there have still been no notifications of non-actionable subsidies made to the Committee.

In last year's report, we detailed the difficulties which the Committee was experiencing in coming to an agreement on an appropriate format for providing updating notifications of green light subsidies to accompany the format adopted in 1995 for the initial notification of non-actionable programs under Article 8.3. All that the Agreement explicitly requires for such updating notifications is that they include "information on global expenditure for each program, and on any modification of the program." Because the green light criteria are often framed at the "project" level, the United States stressed the importance of providing some information on how criteria are being respected at a project level during and following the notified program's implementation. Some other Members contended that it would be unreasonable to require detailed information on all assisted projects, pointing to the Agreement's requirement only to report aggregate program expenditures and to the impracticality of supplying (or reviewing) project-level information for those programs in which literally thousands of small projects may be subsidized.

Ultimately, a format was agreed that requires considerable project-level information for those projects receiving the largest amounts or greatest proportion of government aid. Importantly, this format reaffirms the right of Members to request, and the obligation of Members to provide, information about individual cases of subsidization. It also contains a review clause which specifically authorizes the Committee to consider, after two years of experience in using the format, whether modifications to or discontinuation of the use of the format are warranted. The agreed format, therefore, supports the U.S. objective of assuring a rigorous yet manageable process for scrutinizing notifications of non-actionable subsidies, without prejudicing any of our rights under the Agreement.

The Committee is also consulting on procedures for the conduct of arbitration proceedings involving green light subsidies, pursuant to Article 8.5 of the Agreement. The United States continues to believe that it is desirable to reach agreement on such procedures,

given that no guidance is provided by the Agreement and the time period allotted to complete these proceedings (120 days) is quite abbreviated. This is important not only in order to be able to make effective use of the right to arbitration, but also in order to be well-positioned to initiate the review of the operation of Articles 6.1, 8 and 9 that is required by the Agreement to be completed by no later than July 5, 1999. The Administration intends to work intensively and closely with other WTO Members, the Congress and the private sector to ensure that the Committee's review process is meaningful.

B. Monitoring Subsidy Practices⁵ and Increasing Awareness of WTO Subsidy Disciplines

Strong enforcement of the Subsidies Agreement is a top priority for USTR and Commerce. To this end, during this past year, Commerce committed additional personnel resources to the Subsidies Enforcement Office to expand its effectiveness. The focus of the SEO's work has been to examine subsidy complaints and concerns raised by U.S. exporters and to monitor foreign subsidy practices to determine whether they are impeding U.S. exports and are inconsistent with the Subsidies Agreement. Further, the SEO is working to increase awareness of the resources available to the U.S. trading community in combating unfair competition in foreign markets due to subsidization. To provide this assistance in the most effective and efficient manner, attention is being given to developing and analyzing information about subsidies, integrating other government resources into this process, and making available through the Internet all publicly available subsidy information.

- ***Enforcement Counseling***

Throughout this past year, SEO staff have handled numerous inquiries and met with representatives from fifteen U.S. industries concerned about the subsidization of foreign competitors. As a result of this counseling, we are currently working with U.S. industry on several potential cases under the WTO Subsidies Agreement.

The type of information provided to the SEO through these contacts varies greatly. In many instances, telephoning or writing the SEO represents the first contact which a U.S. exporter makes with government officials regarding a subsidy problem. Initially, we provide an overview of the Subsidies Agreement and explain U.S. rights under this Agreement. We then discuss in detail the subsidy problem the exporter confronts and gather as much information as possible about the subsidy practice and how it has affected the exporter's ability to sell in foreign markets. Following this, we determine what further information is needed and the best way to go about collecting it. Typically, there is information to which only the firm or industry in question has access concerning the harm it has experienced due to the subsidization. This information is

⁵ Attachment 1 provides information concerning subsidy practices of the top ten trading partners of the United States.

critical to support, for example, a claim of “serious prejudice.” While the U.S. exporter is assembling such serious prejudice information, we begin the process of researching the subsidy practice at issue to determine the legal framework under which the foreign government is offering the assistance and whether other U.S. exporters have been facing similar problems.

In order to develop as much information as possible about the subsidy practice, we draw on the following resources: reviewing information contained in the Commerce Subsidies Library, researching Internet sites, discussing the issue with Commerce offices which routinely collect information on specific country and industry practices, and contacting Commerce’s Advocacy Center to learn whether any U.S. exporters have discussed facing similar problems. After this initial research, we then contact the U.S. embassy in the foreign country maintaining the subsidy to discuss our findings and determine whether there is further information that could be provided. We also may contact our counterparts in other governments to ascertain whether they have had complaints from their exporters about the same subsidy practice in a third country.

Once sufficient, relevant information has been gathered to permit the matter to be reliably evaluated, USTR and Commerce will confer with an interagency team to determine the most effective way to proceed. In many cases, raising the matter through informal contacts, formal bilateral meetings and/or in Subsidies Committee discussions can promote more speedy and practical solutions than resorting to WTO dispute settlement. These other approaches also may permit us to uncover additional information or to improve our understanding of the practice, which can affect the decision as to next steps, including the possibility of pursuing the problem on grounds other than those provided for under WTO subsidy rules. In any event, as can be gleaned from this report’s discussion of monitoring and enforcement activities, it is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO.

- ***Integration of Government Resources***

One of the most important aspects of increasing the effectiveness of the SEO and subsidy enforcement generally is to ensure that government personnel who have daily contact with the U.S. exporting community, both here in the United States and abroad, are aware of the resources and services available regarding subsidy enforcement efforts. Within Commerce, it is the responsibility of the U.S. and Foreign Commercial Service (“US&FCS”) to counsel U.S. companies abroad. Therefore, we hold formal briefings with US&FCS officers as they rotate through Washington to describe what is available through the SEO. In addition to providing the officers with information on SEO activities, several copies of informational sheets are provided to take back to their posts to inform other US&FCS officers and U.S. business visitors to the post about resources available through this office. (See Attachment 2.) These briefings also have become a

source of information concerning the types of subsidy problems U.S. companies are experiencing in the host countries of the US&FCS officers. SEO personnel also have participated in special conferences held for senior commercial officers and training sessions held for foreign service national employees⁶ in Washington. These meetings have provided a unique opportunity to provide information on the resources available through the SEO to a large number of government officials who have daily interaction with U.S. companies.

As part of the strategy to involve U.S. government personnel overseas in subsidy enforcement activities, we have been working with officials at the Department of State to include foreign service economic officers in this effort, pursuant to the statutory mandate to secure the cooperation of other Federal agencies as provided for in section 281(g) of the URAA. Collaboration between the Departments in developing and sharing information concerning foreign government subsidy practices and the administration of foreign governments' unfair trade laws is an important aspect of this effort. We plan to provide training to State Department economic officers in identifying and evaluating foreign subsidy practices and in monitoring unfair trade actions involving U.S. companies.⁷ State Department economic officers then will perform these activities and make relevant information available to Commerce, USTR and the interagency team on a regular basis.

We intensified our consultations with foreign service officers at several U.S. embassies and consulates in December of 1997. We met with both US&FCS and economic officers at U.S. posts to provide information on WTO subsidies disciplines and the resources available through the SEO. The US&FCS and economic officers each provide a unique perspective to the subsidy enforcement efforts. The US&FCS officers have daily contact with the U.S. exporting community and, therefore, are directly aware of the problems facing the companies. The economic officers are informed about the types of subsidy programs being administered or contemplated by the host governments. Both types of information are critical for the SEO to be effective. We also met with U.S. industry representatives located in those countries to discuss issues facing U.S. exporters. Again, the information gathered proved very useful in determining the most appropriate areas in which to focus our efforts to assist U.S. exporters. We will be extending these contacts and outreach efforts in 1998.

⁶ Foreign service nationals are professional employees of the U.S. embassies and consulates who are native to the country in which the embassies are located. These employees assist foreign service and US&FCS officers with their stated duties.

⁷ An important factor in a U.S. company's ability to do business in any given market is the manner by which the foreign government administers its unfair trade laws and, in particular, its countervailing duty (CVD) and antidumping (AD) laws. Import Administration monitors these foreign AD and CVD actions involving U.S. companies to ensure that the countries are conducting these investigations in accordance with their international obligations.

Finally, we have been working very closely with other offices in Commerce's International Trade Administration to ensure that they are fully aware of our subsidy enforcement efforts and that the SEO is familiar with the information on subsidies that these offices routinely collect in the course of their own work. Chief among our growing contacts are the country- and industry-specific desk officers, the Advocacy Center⁸, and the Trade Compliance Center⁹.

Our work with the Advocacy Center provides an excellent example of this collaborative effort. The Advocacy Center assists U.S. exporters seeking government contracts abroad by providing U.S. government advocacy on behalf of the U.S. company when other foreign competitors bidding on the same contract have their government's support. At times, this foreign government support may be in the form of subsidies. When the Advocacy Center receives a call from a U.S. company concerning possible foreign government subsidization, they contact the SEO and provide all of the relevant information. In addition, the Advocacy Center has recently connected the SEO to their computer database, which allows us to review information gathered by the Center to determine whether U.S. exporters' access to foreign contracts is being impeded by government practices which may be actionable under subsidy rules.

- ***Subsidy Information Available through the Internet***

Commerce has furthered its efforts to develop a comprehensive database of foreign government practices that are potentially actionable under the Subsidies Agreement. As mentioned in last year's report, we have been focusing our efforts on making as much of this information available through the Internet as possible. By making this information available at a single site, U.S. exporters will be able to learn quickly about the remedies available to them under the Subsidies Agreement and the information necessary to develop a countervailing duty case or a WTO subsidies complaint. In addition, by integrating all of the subsidy information developed through years of conducting countervailing duty investigations, we now have the information available in a format which we can easily use to check the WTO notifications of other countries and ensure that they are complete and accurate. As discussed above, this notification process is an important aspect of our subsidy enforcement efforts.

The past year has been an important one in the development of the subsidy database. The Import Administration "home page" now contains a wealth of information concerning the Subsidies Agreement, including the U.S. domestic legislation and

⁸ The Advocacy Center helps U.S. exporters seek contracts abroad on an equal footing with foreign government-backed competitors.

⁹ The Trade Compliance Center monitors compliance with all international commercial agreements to which the United States is a signatory.

regulations which implement the Agreement. Another important resource available through the home page is the new subsidies database¹⁰ which lists, by country, all subsidy programs investigated or reviewed in countervailing duty cases since the new countervailing duty law went into effect in January 1995. This database provides information on subsidy programs, by country, in a user friendly environment, which currently covers well over 200 subsidy programs in 14 countries. The table below provides a summary of the number and type of subsidy programs covered, allocated across the various industrial sectors represented in these cases.

	Export Incentives	Tax Incentives	Sectoral Incentives	R&D Assistance	Regional Assistance	Other
Agricultural Products	23	10	42	2	40	8
Chemical & Mineral Products	5	0	4	7	8	4
Manufactured Products	51	9	6	1	10	19
Steel Products	44	9	91	9	35	19
Other Products	7	0	1	0	2	8

Throughout the coming year, we will continue to expand the subsidy database to include information from all U.S. countervailing duty cases conducted since 1980.

In addition to the information discussed above, the home page also provides (1) all derestricted WTO subsidy notifications, listed by country, and (2) easily accessible links to other useful U.S. and foreign government cites, such as USTR, the U.S. Ex-Im Bank, the International Monetary Fund (IMF), the WTO (which maintains databases of both Members' countervailing duty cases as well as their subsidy notifications to the WTO), the Canadian and Mexican government trade agencies, and NAFTA. We will be working over the coming year to increase the number of government and foreign links provided. In addition, links to Commerce personnel who can provide additional guidance are supplied. The Internet provides an easy and efficient new avenue to reach U.S. businesses and furnish them with information previously available only in person in Washington.

C. U.S. Enforcement Activities

¹⁰ While all pre-1995 countervailing duty cases are currently available in hard copy in the Commerce Subsidies Library, they are not as useful a research tool as the new database recently created.

The United States continues to pursue enforcement of U.S. rights under the Subsidies Agreement through WTO dispute settlement proceedings, bilateral contacts and other actions. Although any decision to initiate a dispute settlement proceeding must carefully take account of the balance of U.S. interests, the general policy objectives of both the Administration and the Congress are to discourage distortive subsidization and to remedy effectively harm caused to U.S. producers or workers by such subsidies. This is expressed clearly in the URAA, and it is the context in which potential subsidy enforcement complaints have been, and will continue to be, considered. USTR, with the assistance of experts from Commerce, Agriculture and other agencies, has been actively pursuing a number of WTO disputes. The following summarizes the principal disputes which have been pursued to date by the United States.¹¹

Australia: Subsidies to Automotive Leather

On October 3, 1996, USTR initiated an investigation on the basis of a petition filed under Section 301 of the Trade Act of 1974 by the Coalition Against Australian Leather Subsidies. The Coalition -- representing two U.S. companies that tan leather for automobile upholstery -- alleged that four subsidy programs maintained by the Government of Australia had enabled Australian leather tanners to win unfairly contracts from longstanding customers of the U.S. industry and to undercut and suppress the U.S. industry's prices. The subsidies named in the petition are: (i) the Export Facilitation Scheme Arrangements for the Automotive Sector; (ii) the Textiles, Clothing and Footwear Import Credit Scheme; (iii) the Export Market Development Grants Scheme; and (iv) the International Trade Enhancement Scheme. The first two programs provide credits to eligible companies to obtain import duty reductions that are determined, in part, on the basis of the value of export sales and the extent of Australian value added in the exported product(s). Under the latter two programs, grants and preferential loans are provided to help Australian exporters develop foreign markets for their goods and services.

The United States and Australia held WTO dispute settlement consultations on October 31, 1996. On November 25, a settlement to this dispute was reached through an exchange of letters in which the Government of Australia agreed to excise automotive leather from eligibility to receive benefits beyond April 1, 1997, under either the automotive program or the textiles, clothing and footwear program. (Howe Leather, believed to currently be the sole producer of

¹¹ The United States is also a defendant in a dispute involving the Subsidies Agreement. On November 18, 1997, the EU requested WTO dispute settlement consultations, alleging that the U.S. foreign sales corporation (FSC) tax provisions are a prohibited subsidy under the Subsidies Agreement and that they violate Articles III and XVI of the GATT 1994. We consulted with the EU on December 17, and will hold another round of consultations on February 10. The United States is committed to the vigorous defense of the FSC provisions, which were enacted over a decade ago in order to conform U.S. tax law to the explicit requirements of multilateral trade rules following an earlier GATT dispute over the Domestic International Sales Corporation tax provisions of the United States and the territorial tax systems of several European countries.

automotive leather in Australia, is no longer eligible to receive subsidies under the Export Market Development Grants Scheme, and the International Trade Enhancement Scheme has been terminated and residual benefits are being phased out.)

At the beginning of 1997, however, the Australian government announced that it would provide Howe Leather a “compensatory” package of assistance, which we later learned consists of a \$25 million loan (in Australian dollars) provided on preferential and non-commercial terms and grants amounting potentially to another \$30 million. Notwithstanding ongoing bilateral efforts to resolve the matter, the United States considers that -- in light of their terms and the circumstances under which they have been provided -- the subsidies provided to Howe Leather constitute *de facto* export subsidies which are prohibited by the Subsidies Agreement.

On October 1, USTR highlighted its concerns about this matter in its “Super 301” announcement and, on November 10, 1997, the United States asked Australia to consult formally on these new measures. These consultations were held in Geneva on December 16 without producing a mutually satisfactory solution. Consequently, on January 9, 1998, the United States requested establishment of a dispute settlement panel under the expedited procedures of the Subsidies Agreement which apply to prohibited subsidy complaints. A panel was established by the WTO Dispute Settlement Body at its meeting of January 22, 1998.

Brazil: Subsidies to the Automotive Sector

On August 13, 1996, the United States and four other WTO Members held consultations with Brazil concerning a local content regime for automotive investment which Brazil introduced in December 1995. Among other things, the United States contends that the tariff concessions which Brazil provides under this regime give rise to questions as to the consistency of the regime with Brazil’s obligations under the Subsidies Agreement.

On October 1, 1996, USTR announced that the United States and Brazil agreed to enter into intensive talks with the goal of removing the discriminatory impact of Brazil’s practices on U.S. exports. In the meantime, on October 11, USTR initiated a Section 301 investigation of this matter as a precursor to possible WTO action.

On January 10, 1997, the United States requested additional, formal consultations with Brazil concerning a new package of automotive incentives which it has introduced. These new measures provide (i) benefits to certain companies located in Japan, the Republic of Korea and the EU in the form of reduced tariffs on a specified number of vehicles; (ii) benefits to companies investing in automotive manufacturing facilities in the North, Northeast and West Central regions of Brazil; and (iii) benefits to manufacturers of motor vehicles and parts, in the form of a reduction in duties on imports of certain products, conditional on compliance with average domestic content requirements, trade-balancing and local content requirements with regard to inputs, and other criteria that may be imposed by the Ministry of Trade. Consultations

concerning the new programs took place in Geneva on February 20-21, 1997. We remain concerned about the impact which such measures may have on U.S. interests and, in consultation with all affected domestic parties, have engaged in ongoing discussions with the Brazilian authorities to arrive at a satisfactory solution.

Canada: Export Subsidies on Dairy Products

On October 1, 1997, the United States announced as part of its "Super 301" designations that it would begin trade enforcement actions against Canada on the belief that Canada was disregarding its WTO export subsidy commitments made under the Agreement on Agriculture with respect to dairy products. The U.S. dairy industry (National Milk Producers Federation, U.S. Dairy Export Council and International Dairy Foods Association) petitioned USTR to initiate an investigation under Section 301 on the grounds that Canada's practices were inconsistent with its WTO obligations and adversely affected U.S. exports.

Canada agreed to specific export subsidy limits on dairy products as part of its Uruguay Round WTO obligations. However, on August 1, 1995, Canada replaced its subsidy payments on dairy product exports -- which were previously financed by a levy on producers -- with a new permit system which allows Canadian processors to purchase lower priced milk for sales to export destinations. The Canadian Dairy Commission then divides the revenue from the sales of all milk eligible for pooling (from domestic and export sales) and allocates it to producers in Canada on the basis of their in-quota shipments. Canada claims the new system is no longer an export subsidy. The United States does not agree with Canada's claim.

The United States, joined by Australia and Japan, held dispute settlement consultations with Canada under Article XXII of the GATT 1994 on November 19, 1997. New Zealand separately conducted Article XXII consultations with Canada the week of January 26, 1998. We will continue to work closely with the domestic industry to correct this problem and restore U.S. rights and benefits under the Agriculture Agreement.

EU: Circumvention of Export Subsidy Commitments on Dairy Products

Following an announcement under the auspices of "Super 301," on October 8, 1997, the United States requested WTO dispute settlement consultations to challenge certain EU practices that circumvent the EU's export subsidy reduction commitments under the WTO Agreement on Agriculture and adversely affect U.S. exports. Under its inward processing system for dairy products, the EU produces cheese for export from dairy components such as skim milk powder and butter. The EU exports this processed cheese with the benefit of export subsidies, but counts the exports against its WTO export subsidy limits for skim milk powder and butter. The United States contends this is a breach of the EU's export subsidy commitments under the Agriculture Agreement.

The United States, joined by Australia and Japan, held GATT Article XXII consultations with the EU in Geneva on November 18, 1997. As in the case involving Canadian dairy, we will continue to work closely with the domestic industry in order to reach a satisfactory solution of this problem.

EU: Subsidies to Wheat Gluten

On January 22, 1997, the Wheat Gluten Industry Council (WGIC) -- composed of two U.S. producers of wheat gluten, Midwest Grain Products and Manildra Milling Corporation -- filed a Section 301 petition seeking relief from alleged EU unfair trade practices affecting wheat starch and wheat gluten. Industry concern about growing wheat gluten imports from the EU led the United States to include in a July 1996 cereals and rice agreement with the EU a provision requiring the EU to consult with a view to finding a mutually acceptable solution, if the EU's wheat gluten import market share increased relative to its 1990-92 average. The United States requested consultations under this provision in late 1996, but never progressed beyond the stage of technical discussions with the EU.

The WGIC's Section 301 petition alleged four categories of practices which it claimed were actionable subsidies under the WTO Subsidies Agreement: (i) a wheat export tax, (ii) the starch production refund program; (iii) the starch export restitution program; and (iv) quotas and other production limits on other starches. On March 8, USTR initiated a Section 301 investigation with respect to the starch production refund program to determine whether subsidies granted under that program were causing or threatening to cause serious prejudice to U.S. exports of modified starch to the EU, or are nullifying or impairing benefits accruing to the United States under the WTO agreements. However, the United States delayed requesting consultations with the EU under WTO dispute settlement provisions for up to 90 days for the purpose of verifying and improving the petition to ensure an adequate basis for the consultations, as provided for in Section 301.

In the interim, at the invitation of USTR, the WGIC filed on March 27 a request for additional information on the subsidy practices of various European countries with respect to the production and exportation of wheat gluten and wheat starch. USTR, therefore, initiated a procedure under section 308 of the Trade Act of 1974 to collect such information and, on June 6, 1997, announced that it would postpone a decision on whether to request WTO consultations with the EU pending the outcome of another round of consultations under the provisions of the bilateral grain agreement. In consideration of the above steps, the Section 301 investigation was terminated.

In July 1997, the United States held technical-level consultations with the EU about the growing wheat gluten imports from the EU, but these consultations did not produce a satisfactory result. Consequently, on September 19, 1997, U.S. wheat gluten producers filed a Section 201 escape clause petition with the ITC, requesting that the ITC investigate whether wheat gluten imports from all sources are a substantial cause of serious injury to the domestic industry. The petition asked for the establishment of a four-year quota for each country exporting wheat gluten to the United States. On January 15, 1998, the ITC determined by a 3-0 vote that wheat gluten is being imported into the United States in such increased quantities as to be a substantial cause of

serious injury to the domestic wheat gluten industry. The ITC is now considering the appropriate remedy to recommend to the President, and will forward its findings on injury/threat and import relief recommendations to the President by March 18, 1998.

Indonesia: Subsidies to the Automotive Sector

On October 8, 1996, USTR self-initiated a Section 301 investigation of a trade and investment regime which Indonesia has instituted for its automotive sector. On the same day, we requested WTO dispute settlement consultations with Indonesia based on alleged violations of various WTO agreements, including the Subsidies Agreement.

Since 1993, Indonesia has granted tax and tariff benefits to producers of automobiles and automotive parts based on the percentage of local content of the finished automobile or part. In 1996, the Indonesian government established the “National Car Program,” which grants “pioneer” companies luxury tax- and tariff-free treatment if they meet gradually increasing local content requirements. Pioneer companies must be Indonesian-owned, produce the automobile in Indonesia, and use a unique, Indonesian-owned trademark on the automobile. Pioneer companies also may be granted the right, over a one-year period, to import finished automobiles and still receive the exemption from the luxury tax and tariffs on the imported automobiles; in this case, the foreign company manufacturing the “national car” outside of Indonesia must enter a counter trade arrangement. One company, PT Timor Putra Nasional, has been granted pioneer status and was given the right to import up to 45,000 finished cars in a one-year period from its Korean partner, Kia Motors Corporation. The United States contends that, among other things, the tax and tariff benefits constitute subsidies that cause serious prejudice to U.S. trade interests. The United States also alleges that a \$690 million government-directed loan to PT Timor constitutes a subsidy that has caused, or threatens, serious prejudice.

The United States consulted with Indonesia under the auspices of the WTO on November 4 and December 4, 1996. On June 12, 1997, a panel was established to examine similar complaints brought by Japan and the EU. In addition, pursuant to a request by the EU, an information-gathering process regarding subsidies and serious prejudice was initiated under Annex V to the Subsidies Agreement. On July 29, in response to a request by Japan and the EU, the WTO Director-General composed the panel in the EU/Japan v. Indonesia dispute, and on July 30, the Dispute Settlement Body approved a panel request by the United States and consolidated these disputes into one panel proceeding. A separate information-gathering process under Annex V was initiated at the request of the United States. The EU and U.S. Annex V processes were completed in August and September of last year, respectively.

The panel in this case has met on December 3-4, 1997, and January 13-15, 1998. In the interim, in connection with the financial rescue package recently instituted for Indonesia by the IMF, the tax, tariff and credit benefits provided under the National Car Program are reportedly being terminated, effective immediately. The United States is monitoring this situation closely as it proceeds with the dispute settlement process.

Korea: Potential Subsidies to Hanbo Steel

On February 18, 1997, certain members of the U.S. steel industry wrote USTR and Commerce alleging that the Korean government is improperly supporting the expansion and continued operation of Hanbo Steel. Hanbo, Korea's second largest steel firm, declared bankruptcy in January 1997, despite alleged intervention by government officials over several years to direct Korean banks to continue unsound lending practices to support Hanbo. Shortly thereafter, the Korean government announced plans to inject \$7 billion into the Korean banking system in order to ensure that Hanbo's bankruptcy did not result in a chain reaction of additional failures among Hanbo's creditors and affiliates. Hanbo has now resumed operations, and its bankruptcy trustees have tried on several occasions to sell the company, either as a unit or through the sale of its assets.

In April, after consultations with the domestic industry, USTR and Commerce forwarded a series of questions to the Korean government to seek explanations and clarification of the Hanbo bankruptcy, the government's role (if any) in extending and facilitating the extension of credit to Hanbo on commercially inconsistent terms, the government's role (if any) in assisting the construction, development and operation of Hanbo's new production facility on Asan Bay, and the extent and nature of government assistance to banks, creditors and suppliers whose financial status had been placed in jeopardy as a result of the Hanbo bankruptcy. At the end of April, the United States raised these same concerns at the regular, spring meeting of the Subsidies Committee. A few months later, the Korean government provided a "position paper" which attempted to refute generally the allegations cited in the U.S. steel industry's complaint, but did not directly address the more detailed questions submitted by the United States in April. We subsequently drafted supplementary questions, and forwarded those and the unanswered questions from April back to Seoul in mid-September. As a further sign of our seriousness, we included a statement of the Administration's concerns regarding the potentially extensive subsidization of Korea's steel industry in the "Watch List" of USTR's Super 301 announcement, issued on October 1. The Korean government provided somewhat more detailed answers to all of our questions on November 4, 1997.

The Administration is studying the Korean government's responses, and we are monitoring the financial and other reforms to which Korea has committed in the context of its IMF rescue plan. At the same time, we have been working closely with the domestic industry to gather additional information on potential subsidies and to document the extent to which any such subsidies may have caused adverse effects to U.S. interests. We expect to finalize our assessment of this information in the near future to determine what future steps may be appropriate.

Spain: Subsidies to Specialty Steel

On November 14, 1996, eleven member companies of the "Specialty Steel Industry of North America" (SSINA) requested that the United States seek WTO dispute settlement

consultations with the EU with respect to a provision of Spanish tax law which permits deductions from corporate income tax for 25 percent of the value of foreign investments that are “directly related to exporting goods and services.” The companies allege that the Spanish specialty steel producer, Acerinox, has benefitted from these tax concessions in exporting semi-finished stainless steel feedstock to its subsidiaries in the United States and elsewhere.

Prior to receiving the industry’s request, the United States had posed questions about this program during the course of the Subsidies Committee’s review of the EU’s Article 25.2 subsidies notification, and expressed concerns informally to EU officials and during Committee discussions about the compatibility of this measure with the Agreement’s prohibition of export subsidies. After receiving the industry’s request, USTR conferred with counsel to SSINA to obtain further information and clarification about the industry’s concerns and reiterated our concerns with the EU Commission, providing it with an additional set of questions on March 11, 1997. Following additional exchanges with both the EU and the domestic industry, on July 30, the competition authorities of the EU Commission announced the initiation of a formal investigation to determine the compatibility of the tax provisions with the EU’s state aids rules in force for coal and steel products. In a communication published on October 31 in the Official Journal of the European Communities, the competition authorities issued a preliminary finding that the tax scheme appears to qualify as state aid and to be contrary to the relevant state aids rules. The Commission provided the Spanish government, other EU member states and other interested parties one month from the date of publication of this notice to provide any comments. In conjunction with the domestic industry, the Administration will continue to monitor developments in the EU state aids investigation, as well as in other disputes affecting tax measures and trade involving the United States and the EU, to determine whether further steps on our part are warranted.

ATTACHMENT 1

Identification of Foreign Practices

For this year's evaluation of our trading partners' subsidy practices, we are providing a table below listing subsidy practices by country. We have divided the subsidy practices into several major categories to allow the reader to review quickly the program areas into which each country has chosen to allocate assistance. These subsidy categories are Export Assistance^{1 2}, Tax Incentives, Sectoral Incentives, Incentives for Small and Medium Enterprises³, Research and Development Assistance⁴, Regional Assistance⁵, and "Other" Types of Assistance. Within these categories, we also have included in this year's review an update of subsidy programs discussed in the two previous years' reports.

In preparing the subsidy review, we first looked to our trading partners' WTO notifications as a source of foreign subsidy practices. In our view, the WTO notifications should serve as the starting point for any subsidy analysis because, through their notifications, our trading partners acknowledge the existence of specific practices. As discussed above, during this past year we have carefully scrutinized the WTO notifications of our trading partners to ensure that this process is detailed and transparent. Our goal continues to be to make WTO notifications among the most complete and accurate source of information available on foreign subsidy practices.

In addition to the WTO notifications, we evaluated information on foreign subsidy programs accumulated from a variety of sources, including our own recent countervailing duty cases. During this past year, we have conducted countervailing duty investigations and administrative reviews involving several of the countries included in this year's subsidy review.

¹ It should be noted that the Subsidies Agreement permits developing countries, and countries having economies in transition to market economies, to phase out prohibited subsidies, *i.e.*, subsidies contingent on export performance and subsidies contingent on the use of domestic over imported goods, over longer periods of time than those permitted for developed countries.

² Export credits offered by WTO Members which are party to the OECD Arrangement on Guidelines for Officially Supported Export Credits (most developed countries) and/or by Members which apply the interest rate provisions of the OECD Arrangement (some developing countries) are not considered export subsidies prohibited by the WTO Subsidies Agreement.

³ Small enterprises are often classified as those employing less than 100 people, and medium-sized enterprises as those employing between 100 to 500 people.

⁴ While the Subsidies Agreement permits Members to engage in industrial research within certain clearly defined limits, programs that go beyond these narrowly circumscribed limits are actionable under the Agreement.

⁵ As with research and development subsidies, the Subsidies Agreement permits regional assistance programs within clearly defined limits. Programs that go beyond these limits are actionable under the Agreement.

These countervailing duty cases provide in-depth information about countries' subsidy practices which was invaluable to this subsidy review.

The table below contains only publicly available information. It is based on a review of practices of the United States' top 10 trading partners.⁶ The association of specific practices with particular countries does not necessarily mean that other countries do not maintain the same or similar practices. While the programs described encompass a wide array of practices, including prohibited, actionable, and (potentially) non-actionable subsidies, not all of the practices described in this report necessarily meet the legal definition of a subsidy as set forth in the Subsidies Agreement.⁷ More detailed information on individual programs is available in Commerce's Subsidies Library.

⁶ Although the People's Republic of China ("PRC") is one of our top 10 trading partners, it is not included in our review because it is currently not a member of the WTO and, hence, any assistance programs it might maintain do not fall under the disciplines afforded by the Subsidies Agreement. While Taiwan also is not currently a member of the WTO, it is subject to the U.S. countervailing duty law and, therefore, has been included in our subsidy review. It has been our practice not to apply the U.S. Countervailing Duty Law to non-market economy ("NME's") countries, which is the current status of the PRC. Finally, we have included a separate line item in the table for the EU since some subsidies received by the EU member states listed in the table are funded and administered by the EU.

⁷ As with last year's report, programs specifically aimed at agriculture have not been included, although many of the programs described may have beneficiaries in the agricultural sector. As a result of the Uruguay Round negotiations, adherence to international disciplines on agricultural subsidies primarily is governed by the WTO Agreement on Agriculture, not the Subsidies Agreement. Therefore, the enforcement mechanisms contained in Section 281 of the URAA generally do not apply to trade in agricultural products. In addition, assistance to either the aircraft or shipbuilding industries also has not been included in this year's report because of the special efforts which have already been made to address subsidy problems in these sectors.

Country	Export Assistance	Tax Incentives	Sectoral Incentives	Small and Medium Enterprises	R&D Assistance	Assistance
Canada	<ul style="list-style-type: none"> - The government and companies share costs that will help the firms become more competitive internationally. - Under the APEX program, certain costs are shared with firms entering new foreign markets. 		<ul style="list-style-type: none"> - Assistance provided to the defense industry to help promote defense related products. - Assistance provided for gains in the environmental industries. - Assistance provided in electronics and information technologies and systems. - Assistance provided to strategic technology fields to help them compete internationally. - Interest-free loans provided to manufacturers of major industrial products. - Debt-to-equity conversion provided to a steel manufacturer. - Department of Industry Act provides assistance to microelectronics industry to cover risk of developing advanced technologies. The aid is in the form of contributions. 	<ul style="list-style-type: none"> - Business improvement loans provided to small businesses. - The Industrial Research Assistance Program (IRAP) helps small and medium-sized Canadian firms create and adopt innovative technologies that yield new products, create high quality jobs and make industry more competitive. The program offers cost-shared financing of innovative technical projects. - Advanced Materials and Advanced Manufacturing Technology Loan Program provides loans to small and medium sized firms in Western Canada's advanced materials and manufacturing technology industries. 	<ul style="list-style-type: none"> - R&D incentives provided to defense-related firms. - R&D incentives provided to the following industries: computers, electronics, chemical and oil products transportation, and pharmaceuticals. - Canadian Institute for Advanced Research (CIAR) provides grants for enhancement of national production in research, development, and education, productivity in manufacturing and service industries, and information technologies. 	<ul style="list-style-type: none"> - Assistance provided to Aboriginal Canadian-owned businesses, and for joint ventures with Aboriginal-owned businesses. - Assistance provided for growth and diversification of Northern Ontario. - Firms in Quebec can apply for expansion and modernization assistance if project is aimed for markets outside Quebec. - The Pre-Commercial Fund provides fully repayable contributions to small and medium-sized enterprises that have been unsuccessful in attempts to secure funding from other sources and are located in or interested in establishing a facility in Northern Ontario.
EU			<ul style="list-style-type: none"> - Aid provided to the auto industry. - Aid provided to the coal industry. - The Brûle-EuRam III program provides support to industry, academia and research organizations for pre-competitive collaborative and cooperative research in materials, design and manufacturing technologies. It has a special emphasis on automobiles, ships and trains. 	<ul style="list-style-type: none"> - The Standards, Measurements and Testing (SMT) program aims at funding research and related activities to raise the state of the art in measurements and testing, and disseminating the raised state of the art. This program is focused particularly on improving the competitive position of the SMEs. 	<ul style="list-style-type: none"> - The EU is a member of EUREKA, which promotes "market-driven" collaborative research involving industry and research institutes across Europe. Its goal is to assist in developing and exploiting technologies crucial to global competitiveness. - The Non-Nuclear Energy (NNE) program offers financial assistance to projects involved in energy R&D strategy, rational use of energy, renewable energy sources, and fossil fuels. 	<ul style="list-style-type: none"> - Regional assistance provided to several disadvantaged areas through the European Regional Development Fund and European Social Fund. - Large amounts of regional assistance provided to the Mezzogiorno region in Italy.
France	<ul style="list-style-type: none"> - Programs provide direct loans, interest rate guarantees, loan guarantees, or export credit insurance to 	<ul style="list-style-type: none"> - Tax concessions allowed on land-management locations. - Tax concessions allowed for overseas 	<ul style="list-style-type: none"> - Incentives provided to sustain and rehabilitate state-owned steel enterprises. 	<ul style="list-style-type: none"> - Incentives provided to small- and medium-sized start-up companies. - Incentives provided to small- and 	<ul style="list-style-type: none"> - Incentives provided for pre-competitive research. - Incentives provided for the 	<ul style="list-style-type: none"> - Assistance provided for the creation of jobs in certain regions.
	<ul style="list-style-type: none"> finance export sales. 	<ul style="list-style-type: none"> investment. - Tax concessions allowed for overseas business losses. - Tax concessions allowed for business development overseas. 	<ul style="list-style-type: none"> - Assistance provided for iron and steel reconversion. - Aid provided to the film industry. 	<ul style="list-style-type: none"> - medium-sized firms with specific investment plans. - Incentives provided to small- and medium-sized firms to improve management. - Aid provided to innovate companies with less than 500 employees. 	<ul style="list-style-type: none"> - study of robotics or electronics. - General aid provided to firms - France is a member of EUREKA, which provides financial assistance with research aimed at improving competitiveness. 	<ul style="list-style-type: none"> - Tax concessions for 10 years Regional - Business tax break provided to the Corsica region. - Assistance provided to industries in Guadeloupe, Martinique, and la Reunion with large investment.
Germany	<ul style="list-style-type: none"> - Programs provide direct loans, interest rate guarantees, loan guarantees, or export credit insurance to finance export sales. 		<ul style="list-style-type: none"> - Investment incentives provided to promote Bavarian tourism. - Assistance provided to mining industry and to electrical utilities. - Debt forgiveness granted to steel industry. 		<ul style="list-style-type: none"> - Germany is a member of EUREKA, which provides assistance for research in order to promote competitiveness. 	<ul style="list-style-type: none"> - Overwhelming share of regional aid goes to eastern Germany. - Land sold to enterprises for reduced prices in certain underdeveloped regions. - Energy incentives provided to the region of Westphalia.
Italy	<ul style="list-style-type: none"> - Programs provide direct loans, interest rate guarantees, loan 		<ul style="list-style-type: none"> - Incentives provided to sustain state-owned steel companies. 		<ul style="list-style-type: none"> - Aid provided to promote innovation. - Aid provided to promote R&D. 	<ul style="list-style-type: none"> - Assistance provided to the Mezzogiorno region, including

	guarantees, or export credit insurance to finance export sales.		<ul style="list-style-type: none"> - Debt forgiveness granted to the steel industry. - Incentives provided to the energy sector, including aid for the use of non-traditional energy. - Incentives provided to hydroelectric power plants. - Incentives provided for restructuring mines. - Sabitini Law provides deferral of up to five years of payments due for purchase of machine tools and production machinery. 		<ul style="list-style-type: none"> - Italy is a member of EUREKA, which provides assistance in R&D to promote competitiveness. 	<ul style="list-style-type: none"> a 10-year exemption from local income tax on profits from new or expansion plants. - Assistance provided to help promote industry in other disadvantaged regions.
Japan		<ul style="list-style-type: none"> - Tax deferral given to firms using recycled resources to promote recycling. - Tax deductions for expenditures for prospecting of foreign or domestic mineral deposits. - Tax deferral for firms whose domestic activities are stagnant due to foreign or domestic economic changes. 	<ul style="list-style-type: none"> - Grants provided for securing and stabilizing coal mines. - Interest rate subsidy for rationalization of petroleum refineries. - Grants and loan guarantees provided to promote the textile industry. - Tax deferral provided for firms in high-tech industries. - Special depreciation granted for certain machinery used for high-tech industries. - Aid provided to the iron and steel industry. - Debt guarantees, grants and loans provided to the energy sector. - Low interest financing provided by the Japan Development Bank 	<ul style="list-style-type: none"> - Loan guarantees and exceptional measures provided by the Small - Businesses undertaking activities to promote distribution of imported cargo within specified zones for congregation in Foreign Access Zones can make use of loan guarantees from the Industrial Structural Improvement Fund, and exceptional measures for credit insurance provided by Small Business Credit Insurance. - Tax deferrals provided to small and medium-sized manufactures for structural improvements. 	<ul style="list-style-type: none"> - R&D incentives provided to the following industries: computers, telecommunications, and satellite communications. 	
Mexico	<ul style="list-style-type: none"> - Tax and financing benefits are available to exporters and their suppliers to ensure cost-effective inputs. - Exemptions from, or reduction of, import duties on imported capital equipment allowed for exports. 		<ul style="list-style-type: none"> - Incentives provided to sustain state-owned steel companies. - Debt forgiveness granted to the steel industry. 			
Republic of Korea	<ul style="list-style-type: none"> - Exporting companies are allowed to maintain reserves for export losses and overseas market development. - Exemptions from, or reduction of, import duties on imported capital equipment allowed for exports. 	<ul style="list-style-type: none"> - Reduction given in import duties for aircraft and vessel parts. - Tax concessions given to encourage foreign investment. - Tax concessions allowed for overseas business losses. 	<ul style="list-style-type: none"> - Incentives provided to sustain state- and privately-owned steel companies. - Firms in designated manufacturing industries such as machinery, electronics, aviation and defense, fine chemicals, genetic engineering, 	<ul style="list-style-type: none"> - Assistance provided to increase international competitiveness of small businesses. - Export marketing assistance provided to small and medium-sized firms in the form of low-interest loans 	<ul style="list-style-type: none"> - Loans and grants provided for R&D in a wide variety of information technology fields (with emphasis on SMEs). - R&D assistance provided for 	

		<ul style="list-style-type: none"> - Tax exemption allowed for overseas business development. - Tax Credit for Investment in Facilities (local content subsidy). - Tax exemption given to encourage investment in facilities to develop technology and manpower or to increase productivity, for special equipment or for small business, and for business reorganization. 	<p>new basic materials and anti-pollution technologies may qualify for tax exemptions or tax credits.</p> <ul style="list-style-type: none"> - Multinational corporations in computer software and telecommunications may qualify for tax incentives. - Firms in traditional industries are eligible for deductions of expenses. - Support provided to miners when mines are closed down. - Long-term loans provided to promote the use of domestically manufactured mini-computers. - Incentives provided to the stone industry. 	<p>and tax incentives.</p> <ul style="list-style-type: none"> - Facility investment loans provided by the Small and Medium-Sized Enterprise Foundation Formation Fund. 	<p>low-emissions auto research.</p> <ul style="list-style-type: none"> - Promotion fund established for science and technology research. - Numerous tax benefits and allowances offered to specially designated industries to promote R&D. 	
Singapore	<ul style="list-style-type: none"> - Various production schemes are available for exporting enterprises. - Provides incentives to help promote locally-designed products internationally (25% local content requirement). 	<ul style="list-style-type: none"> - Tax exemptions available for a certain percentage of export profits. - Double deduction from taxes for export marketing expenses. - Provides tax incentives to help promote locally-designed products internationally. 			<ul style="list-style-type: none"> - Research Incentive Scheme for Companies (RISC) supports the setting up of centers of excellence in Singapore to develop in-house R&D capabilities in strategic areas of technologies, with the longer term objective of increasing the company's industrial competitiveness by enhancing its manufacturing and product development capabilities. - Research and Development Assistance Scheme (RDAS) is a grant program which 	
					<p>supports specific projects on product or process R&D, leading to the enhancement of the company's competitiveness and in-house capability development.</p> <ul style="list-style-type: none"> - Cooperative Research Program (CRP) is a grant plan to assist Singapore's local enterprise to develop and apply their technological capabilities, knowledge and skills base for greater competitiveness by partnering with universities and national research institutes and centers. 	
Taiwan	<ul style="list-style-type: none"> - Scheme to eliminate all export requirements for firms located in Export Processing Zones. 	<ul style="list-style-type: none"> - Provides refunds of import duties paid on inputs of exported products. - Duty free importation of inputs and capital goods in designated Export Processing Zones. - Tax credits for funds used in the creation of internationally acceptable brand products. 			<ul style="list-style-type: none"> - Provides a science-based industrial park for producing software. Imported input items are not subject to import restrictions. 	

UK	<ul style="list-style-type: none"> - Programs provide direct loans, interest rate guarantees, loan guarantees, or export credit insurance to finance export sales. 		<ul style="list-style-type: none"> - Incentives provided to sustain state-owned steel companies. - Debt forgiveness granted to the steel industry. 	<ul style="list-style-type: none"> - Grants provided to encourage research conducted by small and medium-sized enterprises. 	<ul style="list-style-type: none"> - Aid granted for biological research. - The "Eureka" project provides grants to encourage collaborative near-market R&D with a clear market relevance. - The UK is a member of EUREKA, which assists with project costs for technical and commercial feasibility work, basic research, applied research and developmental work. Assistance is through grants. 	<ul style="list-style-type: none"> - Aid provided to assist poorer regions compete equally.
----	---	--	--	--	--	--

ATTACHMENT 2

SUBSIDIES ENFORCEMENT:

ASSISTING U.S. EXPORTERS TO COMPETE EFFECTIVELY

Subsidies Enforcement Office: Import Administration is responsible for coordinating multilateral subsidies enforcement efforts. The primary mission is to assist the private sector by monitoring foreign subsidies and identifying subsidies that can be remedied under the multilateral Subsidies Agreement. To fulfill this mission, Import Administration has created the Subsidies Enforcement Office (SEO). As part of its monitoring efforts, the SEO is creating a Subsidies Library, which will be available to the public via the Internet. The goal is to create a one-stop shop that will contain information on relevant foreign government subsidy practices in the most accessible, user-friendly manner possible.

Types of Subsidies: A subsidy can be almost anything a government does, if the following conditions are met: (1) a financial contribution is given by a government or public body, (2) a benefit is received by the company, and (3) the subsidy is "specific" (i.e., provided to a limited number of companies, such as all exporters). Subsidies can take a variety of forms. Following are some of the types of foreign subsidies that could place a U.S. exporter at a competitive disadvantage vis-a-vis a foreign competitor.

- o **Export financing** at preferential rates.
- o **Tax exemptions** for favored companies or industries.
- o **Domestic content requirements**, or subsidies contingent upon the use of domestic goods over U.S. exports (commonly referred to as "import substitution subsidies").

Types of Remedies: Remedies for violations of the Subsidies Agreement could involve requiring the foreign government to eliminate the subsidy program or its adverse effect, or, as a last resort, to authorize offsetting compensation.

Working Together to Assist U.S. Exporters: The SEO would like to receive any information about foreign subsidy practices that may affect export promotion projects in which U.S. companies are involved. The SEO can then evaluate the subsidy and determine whether it is inconsistent with the Subsidies Agreement and whether further action is necessary. By working together to monitor foreign subsidies and enforce the Subsidies Agreement, we can ensure that U.S. companies are competing in a fair international trading system.

As an illustration:

A U.S. exporter is bidding on a project in Country A and is competing against an exporter from Country B. The company from Country B offers a bid that is extremely low, possibly even below what one would assume to be the cost of production. The U.S. exporter may have knowledge that the reason the company from Country B is able to bid so low is that it is being assisted by its government with low cost loans and payment of various export related expenses. In such a situation, we would encourage the U.S. exporter to collect as much information as possible concerning the possible subsidies and then contact us to provide all the relevant information. We would then check further into the types of subsidies being received and determine whether any action should be taken.

Questions and information can be referred to:
Carole Showers tel.: (202) 482-3217
fax : (202) 501-7952
e-mail: Carole_Showers@ita.doc.gov

SUBSIDIES ENFORCEMENT:

ASSISTING U.S. EXPORTERS TO COMPETE EFFECTIVELY

Subsidies Enforcement Office: Import Administration is responsible for coordinating multilateral subsidies enforcement efforts. The primary mission is to assist the private sector by monitoring foreign subsidies and identifying subsidies that can be remedied under the multilateral Subsidies Agreement. To fulfill this mission, Import Administration has created the Subsidies Enforcement Office (SEO). As part of its monitoring efforts, the SEO is creating a Subsidies Library, which will be available to the public via the Internet. The goal is to create a one-stop shop that will contain information on relevant foreign government subsidy practices in the most accessible, user-friendly manner possible.

Types of Subsidies: A subsidy can be almost anything a government does, if the following conditions are met: (1) a financial contribution is given by a government or public body, (2) a benefit is received by the company, and (3) the subsidy is "specific" (*i.e.*, provided to a limited number of companies, such as all exporters). Subsidies can take a variety of forms. Following are some of the types of foreign subsidies that could place a U.S. exporter at a competitive disadvantage vis-a-vis a foreign competitor.

- o **Export financing** at preferential rates.
- o **Tax exemptions** for favored companies or industries.
- o **Domestic content requirements**, or subsidies contingent upon the use of domestic goods over U.S. exports (commonly referred to as "import substitution subsidies").

Types of Remedies: Remedies for violations of the Subsidies Agreement could involve requiring the foreign government to eliminate the subsidy program or its adverse effect, or, as a last resort, to authorize offsetting compensation.

Assisting U.S. Exporters: The SEO would like to receive any information about foreign subsidy practices that may affect export promotion projects in which U.S. companies are involved. The SEO can then evaluate the subsidy and determine whether it is inconsistent with the Subsidies Agreement and whether further action is necessary. By working together to monitor foreign subsidies and enforce the Subsidies Agreement, we can ensure that U.S. companies are competing in a fair international trading system.

As an illustration:

A U.S. exporter is bidding on a project in Country A and is competing against an exporter from Country B. The company from Country B offers a bid that is extremely low, possibly even below what one would assume to be the cost of production. The U.S. exporter may have knowledge that the reason the company from Country B is able to bid so low is that it is being assisted by its government with low cost loans and payment of various export related expenses. In such a situation, we would encourage the U.S. exporter to collect as much information as possible concerning the possible subsidies and then contact us to provide all the relevant information. We would then check further into the types of subsidies being received and determine whether any action should be taken.

Questions and information can be referred to:
Carole Showers tel.: (202) 482-3217
fax : (202) 501-7952
e-mail: Carole_Showers@ita.doc.gov

